

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

WINSERT, INC. and WINSERT, INC. MEDICAL PLAN,

Plaintiffs,

v.

Case No. 11-C-251

KATHLEEN F. HASENFUS,

Defendant.

ORDER DENYING MOTION FOR TRO

Having reviewed the objection of the defendant to the motion for a temporary restraining order, the Court hereby concludes that the motion should be denied. Plaintiffs request that defendant be ordered to deposit \$416.00 per month into an account to be held in trust for plaintiffs in the event they prevail in the above action. The amount is intended to reflect the principal the defendant is receiving from a reverse mortgage on her home. Plaintiffs claim that they have traced some of the proceeds that defendant received in settlement of her personal injury action into her home and ultimately seek a constructive trust on the proceeds.

This case has been pending over a year and defendants have a dispositive motion date of May 18, 2012. Defendant indicates that the amount she receives in social security barely meets her living expenses and to require an additional \$416.00 per month to be deposited into an account could force her into bankruptcy. Given the short period of time left before the dispositive motion date, a relatively small amount of money (but not to the defendant) appears to be at issue. Under the circumstances, the balance of hardships does not favor granting such relief. Moreover, at least on the record as it now stands, the Court cannot say that plaintiffs have a high likelihood of success on the merits. Defendants contend that the action is barred by the statute of limitations and that

plaintiffs knew or should have known more than six years prior to the commencement of the action that the defendant had received a settlement. Given this uncertainty, and the balance of hardships, the Court concludes that relief should be denied.

Accordingly, plaintiffs motion for a temporary restraining order is denied.

Dated this 23rd day of April, 2012.

s/ William C. Griesbach
William C. Griesbach
United States District Judge